

Notice of Allowability

Application No.

10/614,282

Examiner

Joanne Hama, Ph.D.

Applicant(s)

LEE ET AL.

Art Unit

1632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to October 13, 2005.
2. ☒ The allowed claim(s) is/are 1-5, 12-14, 17 and 20-26.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date 1/6/06.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

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An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Ms. Jessica Roark on January 6, 2006.

The application has been amended as follows:

Claims 36-39 are cancelled.

In claim 4, line 1, the word, "viral" was inserted in place of "biological".

In claim 5, line 1, the word, "viral" was inserted in place of the first "biological".

In claim 5, line 1, the word, "viral" was inserted in place of the second "biological".

In claim 12, line 1, the word "isolated eukaryotic" was inserted between "A" and "host".

In claim 12, line 1, the word, "An" was inserted in place of "A".

In claim 17, line 1, the phrase, "*in vitro*" was inserted between "A" and "method".

In claim 17, line 1, the word, "An" was inserted in place of "A".

In claim 23, line 2, the word, "isolated" was inserted between "a" and "host".

In claim 23, line 2, the word, "an" was inserted in place of "a".

In claim 24, line 2, the phrase, "*in vitro*" was inserted between "A" and "method".

In claim 24, line 2, the word, "An" was inserted in place of "A".

In claim 26, line 1, the word, "isolated" was inserted between "A" and "baculovirus".

In claim 26, line 1, the word, "An" was inserted in place of "A".

The following is an examiner's statement of reasons for allowance:

The instant claims are drawn to a nucleic acid vector for the expression of at least two cistrons comprising:

a) a promoter operably linked to a nucleotide sequence comprising at least two cistrons; and

b) a nucleotide sequence that provides IRES activity operably linked to each cistron subsequent to the first cistron, wherein at least one of the nucleotide sequences that provide IRES activity comprises a nucleotide sequence chosen from:

a nucleotide sequence comprising SEQ ID NO. 1;

a nucleotide sequence comprising nucleotides 1-215 of SEQ ID NO. 1;

a nucleotide sequence comprising nucleotides 45-239 of SEQ ID NO. 1;

a nucleotide sequence comprising nucleotides 45-215 of SEQ ID NO. 1;

a nucleotide sequence comprising nucleotides 1-74 and 187-239 of SEQ ID NO.

1;

a nucleotide sequence comprising nucleotides 1-74 and 187-215 of SEQ ID NO.

1;

a nucleotide sequence that differs from a nucleotide sequence comprising SEQ ID NO. 1 by substitution of the nucleotides at positions 124-127 of SEQ ID NO. 1;

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a nucleotide sequence of comprising SEQ ID NO. 2;

a nucleotide sequence that differs from a nucleotide sequence comprising SEQ ID NO. 2 by substitution of the nucleotides at positions 136-139 of SEQ ID NO. 2; and

a nucleotide sequence that differs from a nucleotide sequence comprising SEQ ID NO. 2 by substitution of the nucleotides at positions 126-129 of SEQ ID NO. 2.

A search of the sequences has not identified any prior art.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joanne Hama, Ph.D. whose telephone number is (571) 272-2911. The examiner can normally be reached on Monday-Friday 9:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ram Shukla, Ph.D. can be reached on (571) 272-0735. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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